

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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MICHAEL EARL LOWE,

Case No. 2:21-cv-00605-EJY

Plaintiff,

v.

**ORDER**

KILOLO KIJAKAZI, Acting Commissioner of  
Social Security,

Defendant.

Pending before the Court is the Commissioner's Motion to be Relieved of Providing Paper and CD Copies of the Certified Administrative Record (ECF No. 15). As the Social Security Administration (sometimes the "SSA" or "Administration") knows, the Court relies heavily on the paper copy of the Administrative Record in resolving Social Security appeals. The Court appreciates the staffing and logistical hurdles the Commissioner faces given the COVID-19 pandemic that impedes the Administration's operations. However, perhaps it is pressure from the federal courts that will motivate the SSA to return to more normal levels of operation, which will relieve the bottleneck created by the absence of a CAR that is easily reviewed, efficiently on appeal.

The Court reiterates that the United States is more than 18 months past the beginning of COVID-19. Many departments of the federal government, including the court system, have adapted and are operating at full or near full capacity. It is unclear why the Social Security Administration, an agency so critical to the lives of many Americans, is incapable of operating at a more reasonable capacity. The Court does not expect the U.S. Attorney's Office to answer this question, but the limitations on the Social Security Administration are simply not sufficient to place the burden on the Court to either print the record, which is not its job, or to try to find a needle in the haystack of an enormous electronic record that is so critical to a determination of issues on appeal. The Social Security Administration and the Plaintiff are often familiar with the Administrative Record. The Court, however, is not. Printing the record is not reasonable for the Court.

1 The Court is aware that Fed. R. Civ. P. 5.2(a) allows the Commissioner to “file an electronic  
2 copy of the CAR (e-CAR) under seal using an event in CM/ECF that will be accessible to all case  
3 participants, including counsel of record.” Thus, no waiver of the Rule regarding copies to chambers  
4 is required to allow for the electronic filing of the Administrative Record.

5 The Court is not persuaded that as of October 2021, a paper copy of the Administrative  
6 Record cannot be provided in this case. The Court is open to ideas for how to get this done, but  
7 working with an electronic record is not feasible.

8 Accordingly, IT IS HEREBY ORDERED that the Commissioner’s Motion to be Relieved of  
9 Providing Paper and CD Copies of the Certified Administrative Record is GRANTED in part and  
10 DENIED in part.

11 IT IS FURTHER ORDERED that the Commissioner may file an electronic copy of the  
12 Certified Administrative Record available to Plaintiff.

13 IT IS FURTHER ORDERED that a paper copy of the CAR need not be provided to Plaintiff  
14 or Plaintiff’s counsel.

15 IT IS FURTHER ORDERED that, within seven (7) days of the date of this Order, the Social  
16 Security Administration is to provide the Court with the number of pages in the Certified  
17 Administrative Record applicable to this case and a proposal, if possible, for how the Court may  
18 receive a timely copy of the CAR.

19 DATED this 13th day of October, 2021.

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22 ELAYNA J. YOUCHAH  
23 UNITED STATES MAGISTRATE JUDGE  
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